

EXHIBIT 1

INTRODUCTION

Respondent John G. Sperling is an education entrepreneur and philanthropist, who resides in Phoenix, Arizona. During the second semi-annual reporting period of 2004, Respondent made two contributions totaling \$500,000 to “Fix Three Strikes- Yes on 66, a Coalition of Justice Advocates, Labor Organizations and Church Leaders (“Fix Three Strikes Committee”), a committee that was primarily formed to support a state measure appearing on the ballot in the November 2, 2004 general election.

Respondent made his contributions through an intermediary, the Drug Policy Action Network (“DPAN”), a national non-profit organization, which, according to its web-site, promotes policy alternatives to the drug war that are grounded in science, compassion, health and human rights. The Fix Three Strikes Committee reported the contributions as being made by Respondent Sperling and disclosed DPAN as the intermediary for each contribution.

In this matter, the payments made to DPAN were designated for contributions to be made to the Fix Three Strikes Committee. As such, Respondent’s initial payment of \$150,000 was a “contribution” under the Political Reform Act (the “Act”),¹ and qualified Respondent as a major donor committee. Additionally, the amount of the contribution triggered the Act’s electronic filing obligations. Respondent made the second contribution of \$350,000 during the late contribution reporting period, and therefore, was required to file a late contribution report in paper and electronic format. Respondent was also required to file a semi-annual campaign statement, commonly known as a “major donor campaign statement.”

For the purposes of this stipulation, Respondent’s violations are stated as follows:

COUNT 1: Respondent John G. Sperling failed to timely disclose a \$350,000 late contribution to the Fix Three Strikes Committee in a properly filed late contribution report, by the October 27, 2004 due date, in violation of Sections 84203, subdivision (a) and 84605, subdivision (b) of the Government Code.

COUNT 2: Respondent John G. Sperling failed to timely disclose contributions totaling \$500,000 on a semi-annual campaign statement filed for the reporting period July 1, 2004 through December 31, 2004, in violation of Section 84211, subdivision (k) of the Government Code.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system to accomplish this purpose of disclosure.

Major Donor Committees

Section 82013, subdivision (c) includes within the definition of “committee” any person or combination of persons who directly or indirectly makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees. This type of committee is commonly referred to as a “major donor committee.”

Contribution by Intermediary or Agent

Section 84302 provides that no person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing both the name of the intermediary and the contributor. (Section 84302; Regulation 18432.5.) Regulation 18432.5 states that a person is an intermediary for a contribution if the recipient of the contribution “would consider the person to be the contributor without the disclosure of the identity of the true source of the contribution.”

Duty to File Late Contribution Reports

Under Section 84203, subdivisions (a) and (b), when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report that must be filed within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more that is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure before the date of the election at which the candidate or measure is to be voted on, but after the closing date of the last campaign statement required to be filed before the election. Under Section 84200.7, subdivision (b), for an election held in June or November of an even-numbered year, the late contribution period covers the last 16 days before the election.

Duty to File Semi-Annual Campaign Statements

Section 84200, subdivision (b) requires a major donor committee to file a semi-annual campaign statement for any reporting period in which the committee made campaign contributions. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year.

Section 82046, subdivision (b) specifies that the “period covered” by a campaign statement begins with the day after the closing date for the last statement filed. If a person has not previously filed a campaign statement, the period covered begins on January 1.

Duty to Report Contributions on Major Donor Campaign Statements

Section 84211, subdivision (k) prescribes that certain information must be disclosed on campaign statements, which are required to be filed, including specific information regarding expenditures that are made during each reporting period, including the name and address of the payee, and the amount of the contribution or expenditure if it is \$100 or more. Pursuant to Section 84211, subdivision (k)(5), when the expenditure is a contribution to a candidate or committee the filer must also report the date of the contribution, the cumulative amount of contributions made to the candidate or committee, the full name of the candidate, and the office and district for which the candidate is seeking nomination or election.

Duty to File Campaign Statements Electronically

Section 84605, subdivision (a) requires committees that are significantly active on the state level to file their campaign statements, reports, or other documents online or electronically as well as on paper. When doing so, the Legislature specifically declared, as set forth in Section 84601, subdivisions (b) and (c), that public access to campaign disclosure information is a vital and integral component of a fully informed electorate. Under this program, a major donor committee that makes contributions of \$50,000 or more in a calendar year meets the electronic filing requirements. (Section 84605, subd. (b).)

SUMMARY OF THE FACTS

Respondent has been an active contributor in California politics, qualifying as a major donor committee and filing major donor campaign statements in 1996, and in 1999 through 2005. On September 10, 2004, in response to a solicitation by DPAN, Respondent made a \$150,000 payment to DPAN with the understanding that DPAN would contribute the funds on Respondent’s behalf to the Fix Three Strikes Committee. Respondent’s contribution to the Fix Three Strikes Committee thereby qualified him as a major donor committee during the second semi-annual reporting period of 2004. Additionally, because the amount of the contribution made by Respondent exceeded \$50,000, Respondent was required to file statements and reports electronically. On October 28, 2004, during the late contribution reporting period, Respondent made a \$350,000 contribution to the Fix Three Strikes Committee, again through DPAN.

DPAN properly identified Respondent as the true source of the contributions to the Fix Three Strikes Committee. The Fix Three Strikes Committee reported Respondent as the contributor and DPAN as the intermediary on its campaign statements, including a properly filed late contribution report, as required by the Act.

On September 1, 2005, following contact with Enforcement Division staff, Respondent filed an amendment to his semi-annual campaign statement for the reporting period July 1, 2004 through December 31, 2004 disclosing the \$500,000 in contributions made to the Fix Three Strikes Committee in 2004.

COUNT 1

Failure to Timely File a Late Contribution Report

On October 26, 2004, during the late contribution reporting period, Respondent made a \$350,000 contribution to the Fix Three Strikes Committee. As a major donor committee, Respondent had a duty, under Section 84203, subdivision (a) to timely file a late contribution report within 24 hours, or by October 27, 2004, disclosing the \$350,000 contribution made to the Fix Three Strikes Committee. Respondent also had a duty, under Section 84605, subdivision (b) to timely file the late contribution report electronically within 24 hours, or by October 27, 2004.

Respondent failed to timely file a late contribution report, in violation of Sections 84203, subdivision (a) and 84605, subdivision (b).

COUNT 2

Failure to Timely Disclose Contributions on a Semi-Annual Campaign Statement

As a major donor committee, Respondent had a duty, under Section 84200, subdivision (b), to timely file a semi-annual campaign statement for the reporting period January 1, 2004 through December 31, 2004, disclosing campaign contributions made during that reporting period. Pursuant to Section 84605, subdivision (b), Respondent also had a duty to file the semi-annual campaign statement electronically.

On January 29, 2005, Respondent electronically filed a semi-annual campaign statement for the reporting period July 1, 2004 through December 31, 2004, disclosing contributions totaling \$251,000, made during the reporting period. On January 31, 2004, Respondent filed the same campaign statement in paper format. The campaign statement failed to disclose the two contributions made to the Fix Three Strikes Committee, totaling \$500,000.

Following contact with Commission staff, on September 1 and 8, 2005, Respondent filed an amended semi-annual campaign statement, in paper and electronic format respectively, for the reporting period July 1, 2004 through December 31, 2004, disclosing the additional \$500,000 in contributions that had been made to the Fix Three Strikes Committee in 2004.

By failing to timely disclose contributions totaling \$500,000 on a semi-annual campaign statement, Respondent violated Section 84211, subdivision (k).

CONCLUSION

This matter consists of two counts, which carry a maximum administrative penalty of Ten Thousand Dollars (\$10,000).

This matter was not eligible for the Enforcement Division's Streamlined Late Contribution and Major Donor Enforcement Program due to the size of the unreported contributions. The typical stipulated administrative penalty imposed for filing violations resolved outside of the Streamlined Late Contribution and Major Donor Enforcement Program has historically been determined on a case-by-case basis, and has varied depending on the circumstances.

In aggravation, the contributions not timely disclosed were substantial, and represented approximately 15 percent of the total contributions received by the Fix Three Strikes Committee. Furthermore, the \$350,000 contribution occurred during the crucial last days before the election. Respondent has a history of filing major donor campaign statements, and therefore, was aware of the requirement to file these campaign statements.

In mitigation, Respondent's failure to comply with the Act appears unintentional. At the time the contributions were made, it was widely reported in the media that Respondent made substantial contributions to the Fix Three Strikes Committee. The Fix Three Strikes Committee properly reported the receipt of the contributions identifying Respondent as the contributor on its campaign statements, and as such, there was public disclosure of Respondent's support for the state measure. In addition, Respondent's failure to comply with the Act was in part the result of his mistaken belief that his reporting obligations would be fulfilled by DPAN or the Fix Three Strikes Committee.

Based on the foregoing facts and circumstances, including the above mitigating and aggravating circumstances, the imposition of the agreed-upon penalty of Six Thousand Dollars (\$6,000) is justified.